1982 WL 189254 (S.C.A.G.)

Office of the Attorney General

State of South Carolina April 16, 1982

\*1 The Honorable Thomas M. Marchant III Assistant Minority Leader House of Representatives Box 816 Greenville, S. C. 29602

## Dear Representative Marchant:

Mr. McLeod has referred to me your letter concerning the eligibility of a member of the Greenville County Board of Social Services to be re-appointed to such Board. In the attached letter from Mrs. Sally Martin, it is referenced that the individual, although practicing medicine in Greenville County, actually resides in Spartanburg County.

Pursuant to Section 43-3-10, Code of Laws of South Carolina, 1976, as amended,

'[t]here is created in each county of the State . . . a county board of social services . . . to be composed of not less than three nor more than nine members. The members shall be appointed by the Governor upon the recommendation of a majority, including the Senator, of the county legislative delegation.'

I am unaware of any special statutory provisions establishing residency requirements for the Greenville County Board.

The South Carolina Supreme Court in McLure v. McElroy, 211 S.C. 106, 44 S.E.2d 101 (1947) held that all officers, constitutional and statutory, whether elected or appointed, must be qualified electors. See also: Lee v. Clark et al., 224 S.C. 138, 77 S.E. 2d 485 (1953); State ex rel. Harrelson v. Williams, Mayor, 157 S.C. 290, 154 S.E. 146 (1930), Article XVII, Section I and Article I, Section 5, of the South Carolina Constitution. In Blalock v. Johnson, 180 S.C. 40, 185 S.E. 51 (1936) the Supreme Court determined that the petitioner, who had not been issued a registration certificate in Cherokee County and, therefore, was not a qualified elector in such county, was not eligible to be appointed tax collector in Cherokee County.

Referencing the above provisions, this office has in prior opinions determined that a magistrate must be a qualified elector of a particular county in order to be appointed a magistrate for such county. See: 1963 Ops. Att'y Gen. No. 1571, p. 140; 1974 Ops. Att'y Gen. No. 3774, p. 149. This office has made similar determinations as to the requirement of being a qualified elector of a particular political subdivision as to the positions of mayor, county council, county clerk of court. See: 1970 Ops. Att'y Gen. No. 2956, p. 217; Opinion to Mr. Rawl dated December 19, 1980; Opinion to Sen. Smith dated March 24, 1980.

As to the particular question concerning residency requirements for a member of the Greenville County Board of Social Services, it may be determined that such requirements should be construed to be those residency requirements to be a qualified elector in Greenville County. Referencing Article II, Section 4 of the South Carolina Constitution and Section 7-7-910, Code of Laws of South Carolina, 1976, which state that individuals are eligible to register to vote in the precinct of their residence, an individual may be considered to be a qualified elector of Greenville County only if he resides within Greenville County. Therefore, in the opinion of this office, to be eligible for appointment as a member of the Greenville County Board of Social Services in Greenville County, an individual must reside within Greenville County.

Sincerely,

## \*2 Charles H. Richardson

## Assistant Attorney General

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